

REMARKS

1. Claims

Claims 1-12 and 15-31 are pending in this application, with claims 1, 17, 29 and 30 being independent. Claims 17-31 have been previously withdrawn. Claims 13 and 14 have been previously cancelled. Claims 1-12, 15 and 16 are under consideration.

Based on the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

2. Applicants' Acknowledgement of Office Action dated May 14, 2005

A. Claim Rejections—35 U.S.C. § 112

Applicants acknowledge and note with appreciation the Examiner's withdrawal, as provided on page 2 of the Office Action dated May 14, 2007, of the previous rejection of claims 1-12, 15 and 16 under 35 U.S. C. § 112, first paragraph as lacking enablement for the full scope of the claimed invention.

B. Double Patenting

Applicants acknowledge and note with appreciation the Examiner's withdrawal, as provided on pages 2 and 3 of the Office Action dated May 14, 2007, of the previous rejection of claims 1-12 under the judicially created doctrine of obviousness-type double patenting over claims 1, 36, 37, 39 and 40 of co-pending Application No. 10/146,505 (now U.S. Patent No. 7,122,339) in view of Monteiro *et al.* (2000) *Teratogen. Carcinen. Mutagen.* 20:357-386.

C. Claim Rejections—35 U.S.C. §102

Applicants acknowledge and note with appreciation the Examiner's withdrawal, as provided on page 3 of the Office Action dated May 14, 2007, of the previous rejection of claims 1-12 under 35 U.S.C. §102(b) as being anticipated by Sale *et al.* (April 2000) WO 00/22111.

3. Double Patenting

On pages 3-6 of the Office Action dated May 14, 2007, claims 1-12, 15 and 16 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being

unpatentable over claims 1, 3, 4, 6 and 7 of U.S. Patent No. 7,122,339 in view of Monteiro *et al.* (2000) *Teratogen. Carcingen. Mutagen.*

As noted by the Examiner on page 3 of the Office Action, this rejection can be overcome by filing a terminal disclaimer. Thus, in the interest of expediting the prosecution of the present application, and without acceding in any way that the “art” renders obvious the present claims, Applicants have included herewith a terminal disclaimer disclaiming any term of claims issuing from the present application beyond the expiration date of the full statutory term of issued U.S. Patent No. 7,122,339. Accordingly, withdrawal of this rejection is respectfully requested.

CONCLUSION


In view of the above remarks, reconsideration and allowance of the application are respectfully requested. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (858) 350-2307.

The Commissioner is authorized to charge any additional fees that may be required, including petition fees and extension of time fees, or credit any overpayment to Deposit Account No. 23-2415 (Attorney Docket No.: 33547-731.302).

Respectfully submitted,
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